

STORAGE NAME: h1109.cla
DATE: March 10, 1999

**Florida House of Representative
Committee on Claims
Summary Claim Bill Report**

Bill #: PCB CL 99-03 (HB 1109)
Sponsor: Committee on Claims
References: Claims
Companion Bill: SB 24, by Senator Campbell

A. Basic Information:

1. **Claimant:**
Estate of Charlie Brown, Jr.
2. **Respondent:**
City of Delray Beach
3. **Amount Requested:**
\$80,000
4. **Type of Claim:**
EXCESS JUDGMENT/SETTLEMENT
5. **Respondent's Position:**
The City has agreed to the settlement.
6. **Collateral Sources:**
None
7. **Prior Legislative History:**
None

B. Procedural Summary: A negligent destruction of evidence action was brought by Charlie Brown, Jr. for failure of the City of Delray Beach to preserve evidence collected against a suspected hit and run driver. The Circuit Court granted summary judgment in favor of the city and Brown appealed the trial court's ruling and prevailed. *Brown v. City of Delray Beach*, 652 So. 2d 1150 (Fla. 4th DCA 1995). The case against the city was tried in August 1996, and the jury returned a verdict in favor of Brown for a total of \$400,000.

Brown's comparative negligence in the operation of his bicycle was found to be 25 percent and the verdict was reduced to \$300,000. Final Judgment was entered against the city in the amount of \$307,298.25. An agreed final judgment of attorneys fees and costs for \$83,684.14 was entered against the city. The city has paid \$100,000 and the parties have agreed to settle the excess judgment claim, including attorneys fees and costs, for \$80,000.

C. Facts of the Case: On November 25, 1987, at about 10:30 p.m. Charlie Brown, Jr., was riding his bicycle in the City of Delray Beach when he was struck from behind by a car that left the scene of the crash. Brown was critically injured and brain damaged. The Delray Beach Police investigated the crash and took custody of Brown's orange ten-speed bicycle. Based on eyewitness reports and subsequent six-day investigation, the police impounded a vehicle suspected of being the car that hit Brown. The car and Brown's orange ten-speed bicycle were inspected and tested by the police, and the driver of the car was arrested and charged with leaving the scene of an accident.

During the time the criminal charges were pending, the police department assured Brown's attorney that the evidence would be maintained and safeguarded by the city police and would eventually be made available to his experts. At some point, the police department lost, misplaced, or accidentally discarded

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some of the evidence in its custody. The state attorney subsequently dismissed the criminal charge brought against the driver. Because of the missing pieces of evidence, Brown's experts were unable to connect the car to the hit and run accident. Based on this lack of evidence, summary judgment was granted to the defense in Brown's negligence suit against the driver. The suit against the City of Delray Beach for negligent destruction of evidence was then brought by Brown.

At the time of the crash Brown was 35 years old and the father of a 6 year old daughter. Brown was hospitalized for a significant amount of time and then cared for by his father. Sometime after his father died, Brown was institutionalized until his death on May 4, 1997. The sole beneficiary of Brown's estate is his 17 year old daughter, Nicola Brown. Nicola's mother, Diane Brown, has been appointed guardian of her property. Nicola is currently in high school and will reach legal adulthood on September 27, 1999. According to claimant's counsel, Diane Brown intends to establish a trust with the settlement proceeds for Nicola's further education, health and welfare."

SM: _____ **SD:** _____ **Date:** February 10, 1999
Phillip B. Miller **Stephanie Olin Birtman**